REMARKS

Applicant acknowledges the Office action dated May 19, 2006 and submits this Amendment in response thereto. Applicant believes that no fees are necessary for proper entry and consideration of this Amendment. However, if the Office deems otherwise, Applicant hereby authorizes the Director to charge any deficiency or credit any overpayment to Deposit Account No. 13-2855.

In light of the foregoing amendments and the following remarks, Applicant submits that the present application is in condition for allowance and respectfully requests the Examiner to indicate the same.

Allowable Subject Matter

Claim 7 stands objected to for being dependent on a rejected base claim, but the Examiner indicated in the Office action that claim 7 would be allowable if rewritten in independent form.

Applicant thanks the Examiner for this indication. However, in light of the following remarks establishing the allowability of independent claim 1, Applicant respectfully submits that claim 7 should also be in condition for allowance as being dependent thereon.

Applicant respectfully requests reconsideration and withdrawal of this objection.

Election/Restriction

Applicant acknowledges the Examiner's indication of claims 18-21 as being withdrawn from further consideration in light of Applicant's Amendment in Response to Restriction Requirement filed March 3, 2006. While claims 18-21 presently remain withdrawn, Applicant submits that claims 20 and 21 are dependent on elected independent claim 1, and therefore claims 20 and 21 should have never been withdrawn. Rather, Applicant submits that claims 20 and 21 were erroneously included within the group of method claims, which should have only properly included claims 18 and 19.

Accordingly, Applicant respectfully requests rejoinder and appropriate consideration of claims 20 and 21 in the instant application.

Rejections Under 35 U.S.C. §112

Claims 1 and 11-13 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention.

Specifically, the Office action states that claim 1 recites a subcombination of a device for driving animals, while claim 11 inconsistently recites the combination of a device for driving animals and a driving gate; and claims 12 and 13 inconsistently recite the combination of a device for driving animals and a corridor section with a side wall. Accordingly, the Office action concludes that these alleged inconsistencies render claims 1 and 11-13 indefinite. Applicant respectfully disagrees.

Initially, Applicant submits that the bases for the alleged indefiniteness rejections are perplexing and erroneous. Claims 11, 12 and 13, as previously presented, are directed to a "device according to claim 1" (or claim 12 in the case of claim 13) and present subject matter that refers back to and further limits claim 1 (or claim 12 in the case of claim 13). Applicant respectfully asserts that previously presented claims 11-13 are proper dependent claims, as defined by 37 CFR 1.75. Nevertheless, Applicant has amended claims 1, 12 and 13 herein to more particularly point out and distinctly claim the subject matter therein. The amendments to claims 1, 12 and 13, as well as various amendments to claims 4-8, 10 and 16 presented herein, are not intended to be narrowing amendments and have not changed the scope of the claims, but rather, are intended to merely clarify the claim language.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections.

Rejections Under 35 U.S.C. §102

Claims 1-6, 8, and 11-16 stand rejected under 35 U.S.C. §102 as allegedly being anticipated by Joergensen et al. (U.S. Patent No. 5,009,191). Applicant respectfully traverses this rejection.

Applicant submits that Joergensen et al. disclose a device similar to the type mentioned as being well known in paragraph 2, on page 1, of the present application. Namely, Joergensen et al. disclose a device having a traveling elevating gate. The device

disclosed by Joergensen et al. includes a device for a driving animals in an oblong corridor section by means of a driving gate. The driving gate can be moved from one end of the corridor section to the other and comprises a transport arrangement to move the driving gate (10) in a longitudinal direction of the corridor section between a first position and a second position. The driving gate (10) is then raised to a position above the corridor section and returned to the first end. See FIG. 2 and column 8, lines 57-60 of Joergensen et al. As pointed out in paragraph 2 on page 1 of the present application, a drawback with these known devices is that animals, which are situated behind the traveling elevating gate, may become anxious and stressed when the traveling gate is returning over them.

To the contrary, each of the claims of the present application recite a second transport arrangement adapted to move the driving gate *sideways*, i.e., horizontally, out of and into the corridor section. Such a configuration ensures that the animals cannot see the driving gate returning, thereby ensuring that the animals remain calm.

This is a feature of the present application that is wholly lacking from the device disclosed by Joergensen et al. Specifically, Joergensen et al. fail to disclose a second transport arrangement adapted to pull the driving gate *sideways* out from the corridor section in the plane of the gate from the second position in the corridor section to a third position, and to push the gate *sideways* into the corridor section in the plane of the gate from a fourth position to the first position, as is recited in each of the claims of the present application. As stated above, the device of Joegensen et al. does not move a gate sideways at all, but rather, up and down.

Furthermore, the device of the present application and the device disclosed by Joergensen et al. are structurally different. Each claim of the present application recites a second transport arrangement comprising a second displaceable mounting part. A gate is fastened to the second displaceable mounting part, which is adapted to be moved transversely to the longitudinal direction of the corridor section over a distance corresponding to at least the *width* of the driving gate. To the contrary, as stated above, Joegensen et al. disclose a device that moves a gate up and down. Thus, Joergensen et al. disclose a device that moves the gate a distance corresponding to the height of the driving gate, not the width.

In summary, Joergensen et al. disclose a device wherein a gate slides in a transport arrangement along a longitudinal axis of a corridor, as well as vertically above the corridor. Joergensen et al. fail to disclose a second displaceable mounting part to which the gate is fastened and which is adapted to be moved transversely to the longitudinal direction of the corridor section over a distance corresponding to at least the width of the driving gate, i.e., moving the gate horizontally sideways out of the corridor.

Applicant further submits that these functional and structural differences between the present application and the device disclosed by Joergensen et al. are the desired differences that reduce stress and anxiety in animals by eliminating movement of the gate over their heads. Additionally, moving the gate to sideways, as recited in each of the claims, reduces the amount of noise that the animals are exposed to because the driving gate is returned behind the side walls. Hence, stress levels in the animals will be lower, meaning improved animal welfare, higher meat quality, and higher price.

Accordingly, Applicant respectfully asserts that Joergensen et al. fail to disclose each and every element of the claims of the present application, either expressly or inherently. Thus, Joergensen et al. fail to anticipate claims 1-6, 8, and 11-16, and therefore claims 1-6, 8, and 11-16 are in condition for allowance. Additionally, although currently withdrawn, Applicant submits that claims 21 and 22 should also be in condition for allowance as being dependent on allowable base claims.

Applicant respectfully requests reconsideration and withdrawal of these alleged anticipatory rejections.

Moreover, Applicant submits that a prima facie case of obviousness could not be based, even in part, on Joergensen et al. because Joergensen et al. provides no disclosure which would motivate a skilled person to recognize the problems associated with animals being frightened by a driving gate returning over their heads, nor the technical features outlined in the present claim 1. Rather, Joergensen et al. teach directly away from such a configuration by teaching the movement of a gate over the animals heads.

Rejections Under 35 U.S.C. §103

Claims 9 and 10 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over Joergensen et al. Applicant respectfully traverses this rejection.

In light of the foregoing remarks establishing the allowablility of claims 1-6, 8 and 11-16, Applicant submits that claims 9 and 10 should be in condition for allowance as being dependent on allowable base claim 1.

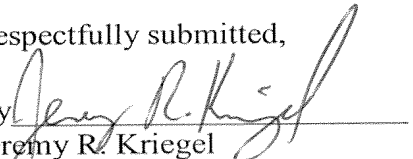
Applicant respectfully requests reconsideration and allowance of these alleged obviousness rejections.

CONCLUSION

In view of the foregoing, Applicant believes that each of the outstanding objections, rejections, and other concerns have been either accommodated, traversed, or rendered moot. Accordingly, the present application should be in condition for allowance. If there is any outstanding issue that the Examiner believes may be remedied via telephone conference, Applicant hereby invites the Examiner to call the undersigned at (312) 474-6300.

Dated: August 17, 2006

Respectfully submitted,

By 

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